

House Bill 309 Testimony

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Representing: Myself, my children, my grandchildren and their children.

I have heard from a number of proponents of HB 309 that our right to recreate on Montana's rivers and streams will not be compromised with the passage of this legislation. I am told that we only need to clarify a couple of minor issues. I hear you. However, for the life of me, after reading the context of this bill many times I fail to find any written reference of any kind reinforcing those words.

What I do find written in this bill is wording which states that any natural flowing channel of a river or stream that contains a manmade irrigation structure will no longer be called a river channel but an irrigation ditch, and from the point of diversion downstream is off limits to all recreation without the landowners permission. I also read in HB 309 that all water which passes through those diversion structures, including return flows to the river, will no longer be considered natural flowing water, but irrigation water and again off limits without landowner permission. I also found wording that states if the majority of those flows returning to the river are made up by irrigation water then those waters also become off limits to recreation without landowner permission.

As we are all aware, most all water in Montana leaves this state by two corridors, the Clark Fork river on the west side of the Continental Divide and the Missouri river on the east side. Now we must visualize that almost every stream and river in Montana flows into one or the other of these two drainages and all have some form of manmade irrigation structure within its channels. The way HB 309 is written this means the only flowing water available for the public to recreate on within the whole state without landowner permission will be those waters upstream from the first division on every feeder stream, providing those waters are located on public land. HB 309 is a far cry from an attempt to clarify some minor issues and for to the most part totally guts our present Stream Access Law!

Since Montana Law states "All water within the state is owned by the state and is to be used for the benefit of all" I believe HB 309 is unconstitutional as it denies those benefits to most.

HB 309 reminds me of the old saying "Fool me once shame on you, fool me twice shame on me". For the sake of our future generations please do not allow this ill-intended bill to fool us even once. **PLEASE KILL THIS BILL.**

Thank You!